



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 1294 OF 2001**

**IN THE MATTER OF THE ESTATE OF THOMAS GANIRA LUNGAHO (DECEASED)**

**JANE MWANJE MANASSEH**

**MARGARET MARAGA MUDOGO, *suing as Administrators of the Estate of***

**THOMAS GANIRA LUNGAHO.....APPLICANTS**

**BERNARD SORE LUNGA'HO.....INTERESTED PARTY**

**VERSUS**

**DOUGLAS MUSAMALI AGOI.....1<sup>ST</sup> RESPONDENT**

**CALVIN AKELLO.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

1. The application before court is dated 16<sup>th</sup> September, 2019 and seeks the following substantive prayers:

**i. That the honourable court be pleased to issue orders restricting the 1<sup>st</sup> and 2<sup>nd</sup> Respondents in person, their agents and or servants and or any other person without the authority of the Applicants herein from entering, trespassing, further dealings, alienating/laying claim, issuing threats to Jemimah Ajiza Ganira and the Applicants herein, further ploughing, planting trees/crops, interfering with the buildings thereon and or any other dealings against parcels of land L.R. No. ISUKHA/MURHANDA/938 and ISUKHA/MURHANDA/930 pending hearing and determination of this application and or further directions by the court.**

**ii. That this court be pleased to issue orders allowing the Applicants, interested party and the rightful beneficiaries to continue occupying the suit premises pending hearing and determination of this application and or summons.**

**iii. That for purposes of peace and compliance with these orders, the same be enforced by the OCS, SHISASARI Police Station in Shinyalu Constituency, Kakamega County.**

2. The grant herein was confirmed on the 27<sup>th</sup> of May 2015 and the beneficiaries are said to have taken possession of their respective shares.

3. The Respondents appear not to have been happy with distribution done in line with the confirmed grant. As a result they filed an application for revocation and/or annulment of the grant on the 10<sup>th</sup> of February 2017. The said application is yet to be prosecuted.

4. The current complaint before court is that the Respondents are interfering with occupation by other beneficiaries who lawfully do so in accordance with distribution aforesaid, intermeddling with the property and threatening.

5. Despite service of the application herein, the Respondents failed to respond to the same or attend court and their bit is therefore unknown to the court.

6. For now I will grant prayer 2, 3, and 4 of the application pending hearing and determination of the application for revocation and or annulment of the grant.

7. In order to bring this very old matter to a quick closure I direct that:

- i. The summons for revocation be heard by way of oral evidence.**
- ii. Parties do file and exchange witness statements within the next 30 days.**
- iii. Documents if any be filed and exchanged within 30 days of the date hereof.**
- iv. The matter be mention for further directions within the next 45 days of the date hereof.**
- v. Costs in the cause.**

**Dated and Delivered in Nairobi on this 6<sup>TH</sup> day of FEBRUARY, 2020.**

**ALI-ARONI**

**JUDGE**